

SD EX 125: M 562/8

STATE DOCUMENTS
COLLECTION

Biennial Message
and
INAUGURAL ADDRESS

OF

GOVERNOR
CHARLES N. HERREID

TO THE

EIGHTH LEGISLATIVE SESSION

STATE OF

SOUTH DAKOTA

South Dakota State Library
322 So. Fort
Pierre, S. D. 57501

COMPLIMENTS OF
CHARLES N. HERREID,
GOVERNOR.

BIENNIAL MESSAGE

OF

GOVERNOR CHARLES N. HERREID

TO THE

EIGHTH LEGISLATIVE SESSION,

STATE OF SOUTH DAKOTA.

1903
STATE PUBLISHING CO.
PIERRE, S. D.

BIENNIAL MESSAGE.

Gentlemen of the Senate and House of Representatives:

Since the meeting of the last Legislature the people have mourned the loss of three of its most distinguished citizens : United States Senator James H. Kyle died July 1, 1901 ; Attorney General John L. Pyle, Feb. 21, 1902, and Circuit Judge Frank J. Washabaugh, May 29, 1902. The extraordinary and extremely difficult task of filling the vacancies thus created in these important positions was thrown upon the Executive of the state. It is a source of comfort that the appointments made have given entire satisfaction.

These men were honored officials of the state at the time of their death, and their memory will be lastingly cherished by all who knew them.

To the people of South Dakota the first two years of the new century have been a period of contentment and happiness. It has been a period of wonderful growth and unrivaled prosperity. All industrial and commercial energies have flourished under most favorable conditions. All the intellectual and moral forces of the state have been active in the cause of enlightenment and righteousness.

Two years ago, in obedience to the will of the people, nearly all official positions and some of the institutions required appointments in harmony with the new administration, and subsequent developments in three of the institutions revealed conditions which not only justified but imperatively demanded a change. Never before had the Executive of the state been confronted with so many vacancies. Impressed with the belief that the affairs of the state should be managed according to rules of business recognized by managers of great and successful industrial corporations, my first efforts to apply these convictions came in the selection

of men to fill the various positions in the service of the state. I soon found that my ideals of good government were not easily put into practice. Whenever I believed that the public service could be made better I have ignored applications for appointments and even the recommendations of my best friends in order to carry out my convictions of duty. Generally speaking, the offices have been seeking the men. Sometimes it required a personal appeal to their sense of duty as good citizens to assume official burdens which to them meant neither honor nor reward.

I have constantly endeavored to enforce the doctrine that the offices were not created for the benefit of any individual or class of individuals ; that with each position there are certain peculiar duties and responsibilities ; that whenever any official fails to measure up to the requirements of his position he must step out, willingly, if possible, but if not, then expeditiously by order of the appointive power. The act of the Legislature of 1901 giving the Governor power to unceremoniously remove officials is a most important step towards good government. In the performance of his duties the Executive is constantly hampered by a mass of restrictions and limitations of power that should be swept away. A distribution of responsibility is demoralizing and not productive of the best results to the people. With greater freedom of action, more power, would come greater personal accountability. An enlightened and active public sentiment under such conditions would be productive of the highest degree of efficiency in every department of the public service. Let a public official who betrays a public trust repent, and be forgiven in the next world, but in this world-never!

THE STATE'S FINANCES.

The state's finances are shown in detail by the report of the Treasurer for the fiscal year ending June 30, 1902.

The bonded indebtedness has been reduced \$185,000 during the last year. Of the bonds redeemed only \$35,000 were matured. Of the remaining bonds redeemed, \$135,000 had eight years to run and \$15,000 ten years before maturity. By the payment of these bonds at this time the state saved \$43,000 in interest. During the past five years the bonded indebtedness has been reduced \$710,700, accomplished by an almost imperceptible annual tax levy and resulting in reducing the annual interest charge from \$59,000 to less than \$10,000. The remaining bonded indebtedness of the state is \$427,500.

To this sum should be added \$150,000 revenue warrants, drawing 4 1-4 per cent interest, due April 1, 1903, issued May 1, 1902, in accordance with Ch. 91, 92 and 93, Laws of 1895, and the practice established during former administrations.

The issuance of these revenue warrants became necessary on account of the extraordinary appropriations two years ago. The legislature which convened January 8th, 1901, was confronted with a variety of deficiencies and claims against the state created by the various boards that had been administering the affairs of the state. Seventeen different claims required appropriations aggregating the sum of \$68,386.08. In addition to this startling array of deficiencies, the legislature found it necessary to appropriate for new buildings for state institutions and permanent improvements the sum of \$189,790, making a grand total for deficiencies, new buildings and improvements, of \$258,356.08. Besides this extraordinary expenditure of over a quarter of a million dollars, there was an increased demand, as there necessarily must be an increasing demand upon the treasury on account of increasing population and development of the state. This fact is apparent in the enormously increased labor in the state offices and state institutions. These expenditures exhausted the funds in the treasury available for current expenses and produced the anomalous condition of warrants "not paid for want of funds," and drawing interest while the cash on hand in the state treasury December 30, 1902, was \$727,248.81. This unfortunate state of affairs has been occasioned by legislative appropriations in excess of the revenues of the state, and by failure to enact legislation that will enable the safe investment of the accumulating school funds. During the last few years the state has lost thousands of dollars in interest paid on "revenue warrants", and "registered warrants", and a vastly larger sum by accumulating funds lying idle in the treasury.

Your attention is directed to the extraordinary expenditure aggregating more than a quarter of a million dollars. This sum is substantially in excess of the revenues of the state. That this difference between the expenditures and the revenues of the state will continue during the present biennial period appears from the following extract from the report of the State Auditor for last year

"The cost of maintaining the several state institutions is gradually increasing from year to year, while the revenue to meet this increasing cost shows little change, except as deficiency levies may be made.

"For the remainder of the present fiscal year, it is estimated the ex-

penditures will be not less than \$500,000, and may reach \$600,000. This does not include the payment of \$250,000 of revenue warrants which become due and must be paid before April 1, 1903. [Of this sum \$100,000 was paid January 1, 1903]. To meet this outlay it is estimated the receipts will amount to \$550,000 to \$600,000, including the proceeds of the deficiency tax levy made by the state board, as required by Chapter 45, Laws of 1901. It appears, therefore, that at the close of the present fiscal year the deficit in the general fund will amount to \$150,000 to \$200,000, depending, of course, in greater or less measure, upon the appropriations to be made by the coming session of the Legislature.

"As the revenues for the succeeding two years will not be more than enough to meet the ordinary expenses of the state, it must be apparent that recourse must be had to another deficiency levy of 1.5 to 2 mills, in order to meet this deficit in the revenues."

Sec. i, Art. li, of the constitution, directs that

"The legislature shall provide for an annual tax sufficient to defray the estimated ordinary expenses of the state for each year not to exceed in any one year two mills." *

ma" And whenever it shall appear that such ordinary expenses shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year, sufficient with other sources of income, to pay the deficiency of the preceding year together with the estimated expenses of such ensuing year."

The constitutional limit of two mills has been levied for several years. Two years ago the Legislature attempted to provide for the then existing deficit, and for which it had made appropriations, by authorizing the state board of assessment and equalization (Ch. 45) at their annual meeting in 1902 "to levy a tax of one mill in addition to the ordinary and general levy of two mills * * * for the purpose of paying the deficiency arising from the ordinary expenses of the preceding year exceeding the income of the state for such year."

From the estimate of the Auditor above quoted, it will appear that the inherited deficiencies will be carried forward and that it will require another "deficiency levy," to pay current expenses and balance the extraordinary appropriations of two years ago.

The officials charged with the financial affairs of the state are helpless to effect a remedy. The appropriations are made by the legislature. The revenues of the state are limited. but the power of the legislature to pass appropriation bills for lawful purpose is unlimited. The tax levy is limited by law and based upon valuations of real and personal property fixed by local assessors and county

boards. The law makes it the duty of the state board of equalization to examine and compare the returns of the assessment of the property of the several counties and proceed to equalize the same so that the taxable property of the several counties shall be assessed at its proportionate value. Section 44, Ch. 28, Laws of 1897, provided that

"Said board shall not reduce the aggregate assessed valuation in the state, but may increase said aggregate valuation in such an amount as may be reasonably necessary to obtain a just and true value and equalization of all the property in the state",

but the legislature of 1901 enacted a law (Ch. 44) the far-reaching effect of which could hardly have been contemplated. This law provides that

"Said board shall not increase the aggregate assessed valuation in the state, as equalized by the boards of county commissioners by more than three million dollars."

Theoretically, an equalization can be made without even a three million dollar adjustment, but in order to make the assessment "proportionate," as equity requires and law directs, it becomes necessary to reduce the valuations in counties where the assessment is proportionately too high, and this, it has been found, would prevent some counties from raising the necessary revenues for local purposes, and between paying a grossly unjust share of the state taxes or having an insufficient county tax, they prefer to pay more than their share of the state taxes. It is a well known fact that for many years in certain counties, for local reasons and on account of local conditions, real estate has been assessed not at "its true and full value in money" (Sec. 25, Ch. 28, L. '97) but in excess of its cash value, while in other counties real estate has been assessed at one third, or even less, of its cash value. Fortunately, these conditions have materially changed during the last year. While the constitution and laws provide for the assessment of all real and personal property at its full and actual "value in money," it is a notorious fact—well known to all except the assessors—that nearly every class of property is assessed from one-third to one-half of its real value.

The following tables show the assessed and equalized value of five classes of property for the year 1902:

TABLE I.

Showing Assessed Valuation. of Farm Lands for the Year
1902.

COUNTY	County Board Equalizat ion Av. Per acre	Per Cent		State Board Equalizat ion Av. Per Acre
		Raised	Lowered	
Aurora	\$ 3.62			\$ 3.62
Beadle	3.36	10		3.70
Bon Homme	11.09			11.09
Brookings	9.65		1	9.56
Brown	4.15			4.15
Brule	3.02	10		3.32
Buffalo	2.56			2.56
Butte	2.53			2.53
Campbell	2.57			2.57
Charles Mix	4.37			4.37
Clark	4.11			4.11
Clay	12.06	5		12.66
Codington	5.98	15		6.88
Custer	2.22			2.22
Davison	5.89			5.89
Day	4.74	10		5.21
Deuel	8.15			8.15
Douglas	5.12			5.12
Edmunds	2.57			2.57
Fall River	2.05		10	1.85
Faulk	2.70			2.70
Grant	7.93			7.93
Gregory	4.07	20		4.89
Hamlin	10.00		15	8.50
Hand	3.06			3.06
Hanson	7.47			7.47
Hughes	3.11		20	2.49
Hutchinson	9.14	10		10.54
Hyde	3.52		30	2.47
Jerauld	2.69	10		2.96
Kingsbury	6.42			6.42
Lake	8.85			8.85
Lawrence	19.94			19.94
Lincoln	12.29			12.29
Lyman	6.36		50	3.18
McCook	6.91	20		8.29
McPherson	2.68			2.68
Marshall	4.06			4.06
Meade	2.01			2.01
Miner	4.52			4.52
Minnehaha	10.35	5		10.87
Moody	9.19	10		10.11
Pennington	2.66			2.66
Potter	2.84			2.84
Roberts	5.71	10		6.28
Sanborn	4.77		10	4.29
Spink	4.70			4.70
Stanley	2.39			2.39
Sully	2.00	15		2.30
Turner	10.63	5		11.16
Union	12.09	5		12.70
Walworth	3.93		25	2.95
Yankton	13.95		20	11.16
Average total	\$5.73	.89		\$5.78

TABLE. Showing Assessed Valuation of Horses Three Years Old and Over for the Year 1902.					TABLE. Showing Assessed Valuation of Cows Two Years Old and Over for the Year 1902.				
County	County Board Equalization Av per hd	Per Cent		State Equalization Av. Per head	County Board Equalization per Hd	Per Cent		State Board Equalization Av. Per Head	
		Raised	Lowered			Raised	Lowered		
Aurora	\$10.93	125		\$24.58	\$8.02	100		\$16.04	
Beadle	23.91			23.91	12.69	25		15.85	
Bon Homme Brookings	30.11		20	24.07	1514	6		16.04	
	30.00		20	24.00	15.34	5		16.11	
Brown	25.18			25.18	15.00	7		16.05	
Brule	19.37	25		24.21	13.23	20		15.89	
Buffalo	24.91			24.91	15.7			15.74	
Butte	18.06	35		24.40	16.78		5	15.94	
Campbell	22.93	7		24.54	15.36	5		16.13	
Charles Mix ..	21.99	10		24.18	12.22	30		15.88	
Clark	24.38			24.38	14.90	7		15.94	
Clay	22.78	8		24.61	11.97	33 1-3		15.96	
Codington	30.46		20	24.37	17.03		6	16.01	
Custer	18.00	35		24.35	18.00		11	16.02	
Davison	20.62	20		24.74	11.96	33 1-3		15.94	
Day	25.12			25 12	18.13		12	15.96	
Deuel	28.88		15	24.54	14.84	8		16.00	
Douglas	20.11	20		24.14	10.07	60		16.11	
Edmunds	23 89			23.89	16.79		5	15.95	
Fall River	23.71	5		24.90	17.37		8	15.97	
Faulk	23.71	5		24.92	15.12	6		16.03	
Grant	24.89			24.89	11.96	33 1-3		15.95	
Gregory	27.30		10	24.57	20.11		20	16.09	
Hamlin	25.73		5	24.44	16.00			16.00	
Hand	9.63	155		24.55	7.7	105		15.93	
Hanson	25.16			25.16	15.06	6		15.96	
Hughes	22.57	8		24.37	14.98	7		16.02	
Hutchinson	24.75			24.75	12.22	30		15.89	
Hyde	16.45	50		24.69	10.76	50		16.14	
Jerauld	24.05			24.05	12.85	25		16.06	
Kingsbury	24.82			24.82	15.36	5		16.12	
Lake	25.48		5	24.21	17.88		10	16.09	
Lawrence	21.89	12		24.51	17 02		6	16.00	
Lincoln	25.04			25.04	12.02	33 1 3		16.02	
Lyman	20.30	20		24.36	15.87			15.87	
McCook	20.58	20		24.70	10.00	60		16.00	
McPherson	24.22			24.22	15 90			15.90	
Marshall	25.11			25.11	14.74	9		16.07	
Meade	22.31	10		24.54	16.33			16.33	
Miner	25.75		5	24.46	14.78	8		15.97	
Minnehaha	23.04	5		24.20	11.92	35		16.09	
Moody	18.37	33 1-3		24.49	13.74	16 2-3		16.03	
Pennington	22.90	7		24.50	19.09		16 2-3	15.91	
Potter	23.95			23.95	16.02			16.02	
Roberts	25.11			25.11	12.03	33 1-3		16.05	
Sanborn	20.94	20		25.13	12.86	25		16.08	
Spink	25.93		6	24 37	12.10	33 1-3		16.12	
Stanley	15.00	65		24.75	16.00			16.00	
Sully	25.47		5	24.40	15.10	6		16.00	
Turner	21.93	12		24.57	15.78			15.78	
Union	25.18			25.18	12.03	33 1-3		16.04	
Walworth	24.57			24.57	21.92		27	16.00	
Yankton	30.10		20	24.08	13.70	16 2-3		16.00	
Av.total 90....	\$23.41	4.92		\$24.56	\$14.41	10.97		\$16.00	

TABLE Showing Assessed Valuation of Hogs for the year 1902.					TABLE Showing Assessed Valuation of Pianos for the Year 1902				
County	County Board Equalization Av. per	Per Cent		State Board Equalization Av. Per Head	No	County Equalization Average Value	Per Cent		State Board Equalization Average Value
		Raised	Lowered				Raised	Lowered	
Aurora	1.99	35	.....	2.68	52	25.19	120	.....	55.42
Beadle	2.95	.....	10	2.65	199	41.43	331-3	.....	05.24
Bon Homme	2.36	15	.....	2.71	93	67.96	.....	20	54.40
Brookings	2.75	.....	..	2.75	187	58.90	.....	6	55.00
Brown	2.81	.....	5	2.671	356	63.34	.....	121-2	55.42
Brule	2.68	.....	.....	2.684	41	28.32	95	.....	55.22
Buffalo	2.20	23	.....	2.70	3	20.00	175	.....	55.00
Butte	2.44	10	.....	2.68	16	72.11)	.....	25	54.13
Campbell	1.86	45	.....	2.69	4	5000	10	.....	55.00
Charls Mix ..	2.74	.....	.....	2.74	29	11.90	.....	23	55.35
Clark	2.57	5	.....	2.7(1	77	47.60	15	.....	54.74
Clay	3.05	.....	12	268	99	43.00	30	.....	55.89
Codington	2.88	.....	6	2.71	185	66.94	.....	18	54.90
Custer	1.87	45	.....	2.71	39	81.1	.....	331-3	34.10
Davison	2.80	.....	5	2.66	103	62.52	.....	12	55.02
Dav	2.70	.....	.....	2.70	111	73.56	.....	25	55.17
Denel	2.59	5	.....	2.71	4.	214.00	90	.....	55.11
Douglas	2.50	8	.....	2.70	41	66.17	.....	16 2-3	55.15
Edmund	1.89	45	.....	2.74	2.5	77.00	.....	28	55.44
Fall River	3.08	.....	121-2	2.70	88	49.40	12	.....	55.33
Faulk	2.36	15	.....	2.70	52	51.02	8	.....	55.10
Grant	2.44	10	.....	2.68	79	46.01	20	.....	55.30
Gregory	4.32	.....	38	2.68	7	53.57	3	.....	51.14
Hamlin	2.65	.....	.....	2.65	69	60.91	.....	10	54.83
Hand	0.83	225	.....	2.69	48	30.31	80	.....	54.56
Hanson	2.47	10	.....	2.72	62	39.34	40	.....	55.77
Hughes	2.71	.....	.....	2.71	88	58.76	.....	6	55.24
Hutchinson	2.26	20	.....	2.71	49	51.63	7	.....	55.24
Hyde	1.64	63	.....	2.71	16	31.38	75	.....	54.94
Jerauld	2.77	.....	.....	2.77	21	71.86	.....	23	55.33
Kingsbury	2.04	33 1-3	.....	2.72	92	59.30	.....	7	55.14
Lake	2.90	.....	7	2.70	147	69.93	.....	20	55.27
Lawrence	3.32	.....	20	2.66	388	61.68	.....	10	55.51
Lincoln	3.00	.....	10	2.70	143	39.50	40	.....	55.43
Lyman	2.94	.....	8	2.70	4	25.00	120	.....	55.00
McCook	1.50	80	.....	2.70	104	35.34	55	.....	54.77
McPherson	2.21	22	.....	2.711	17	44.41	25	.....	55.53
Marshall	2.31	16 2-3	.....	2.69	50	61.10	.....	10	55.00
Meade	2.71	.....	.....	2.71	52	49.52	10	.....	54.48
Miner	3.04	.....	12	2.67	50	36.30	50	.....	54.46
Minnehaha	2	8	.....	2.71	574	42.51	30	.....	55.26
Moody	3.09	.....	12 1-2	2.71	83	50.31	10	.....	55.35
Pennington	1.93	40	.....	2.73	111	65.45	.....	162.3	54.54
Potter	2.09	30	.....	2.72	18	1,389	3	.....	55.50
Roberts	2.49	10	.....	2.74	69	81.41	.....	33 1-3	54.28
Sanborn	2.60	5	.....	2.73	63	49.11	12	.....	55.00
Spink	2.18	25	...	2.72	138	49.03	12	.....	53.91
Stanley	2.00	35	.....	2.70	18	73.06	.....	25	54.78
Sully	3.04	.....	12	2.67	7	37.14	50	.....	55.71
Turner	4.1	.....	3.5	2.7(1	113	33.24	662-3	.....	55.40
Union	2.76	.....	.....	2.76	94	71.01	.....	22	55.39
Walworth	3.00	.....	10	2.70	20	43.00	30	.....	55.90
Yankton	2.94	.....	8	2.70	166	5003	10	.....	55.04
Av. total 1901	\$2.71	05	.....	\$2.71	4917	\$53.77	2.62	.....	\$55.17

A careful examination of the foregoing tables will, I believe, show that the equalization is as just and "proportionate" as it is possible to make it under existing laws and conditions, and that an absolutely correct and equitable equalization by the state board is confessedly impossible.

THE PERMANENT SCHOOL FUND.

The "Permanent School Fund" at the close of the fiscal year had reached the sum of \$4,084,566.59. Of this sum on that day \$538,500 was lying idle in the State Treasury for reasons fully set forth in the report of the Commissioner of School and Public Lands. The out-going treasurer estimates that the schools of the state suffered a loss of \$16,000 in interest by reason of this money lying idle during the year ending June 30, 1902. Unless this Legislature will provide a remedy the loss for the current year will probably double that of the preceding year. Few subjects of greater importance will engage the attention of this Legislature. Many suggestions have been made by county and state officers, whose duty it is to administer the laws affecting these trust funds ; but it appears to me that none of them are sufficiently far-reaching, being, like the recently adopted constitutional amendment, but temporary expedients. Our magnificent school fund will in the near future assume gigantic proportions. The Commissioner of School and Public Lands estimates that the remaining unsold school lands can in the near future "be sold at a price at least equal to the average of those lands already sold, or \$14.60 per acre"-a sum exceeding thirty-one million dollars. The question is: What shall we do with this large trust fund? With a decreasing rate of interest on gilt-edged securities, and the public and private indebtedness of the state rapidly disappearing, the day is not far distant when it will be necessary to look beyond the state for the investment of this fund. The judicious management of this money will demand discriminating care and business ability of the highest order, and a comprehensive system sufficiently broad and elastic to remain operative, not until the next session of the Legislature, but for many years to come. The main point to be considered is: continuous investment at the best rate of interest consistent with absolute security, in compliance with the mandate of the constitution that "the principal shall forever remain inviolate." I earnestly recommend and urge that the best legal and business ability of this Legislature be organized and brought to bear upon the solution of this problem.

SHALL THE SCHOOL AND ENDOWMENT LANDS BE SOLD OR LEASED?

The difficulties encountered relating to the investment of the school funds have developed two distinct lines of thought or policies to be pursued by the state with the unsold school and endowment lands numbering 2,570,923 acres. On the one hand it is maintained that these lands should be sold within a reasonable time, not only for the interest to be derived from the investment of the proceeds, but for the occupation of these lands and development of the localities where these lands are found. Counties with large tracts of untaxed state lands object to a policy which retards their development and throws an undue share of the burdens of taxation for public improvements upon the owners of the improved lands. Objection is also made to an elaborate state system of tenantry.

The argument in favor of leasing these lands is briefly and best stated by President Beadle

"It would cost far less to administer the lands and funds upon the rented plan. There would never be any risk to the principal ; it would remain in the lands, safe. The collection of these sums would be more easy, less expensive and safer than the loan of the money, and an easier and safer proposition. We have this alternative: To sell the lands and accept a steadily declining rate of interest upon a fund that cannot increase, or to lease the lands and receive an increasing income from a permanently increasing capital. Interest declines ; real property advances. Let us keep the best security and income."

The Legislature by joint resolution, after a thorough discussion and mature deliberation, might outline the policy which, in its judgment would best subserve the interests of the people of the state.

STATE TREASURER'S BOND.

The law directs that the State Treasurer shall give a bond for \$250,000. The following statement would indicate that the amount of the bond is not proportionate to the amount of funds in the treasury

Balance, cash on hand in treasury July 1, 1900	\$ 555,701.37
Total receipts for the year ending June 30, 1901	1,738,587.24
Grand total, 1901.....	\$2,294,288.61
Balance cash on hand in treasury July 1, 1901	764,888.46
Total receipts for the year ending June 30, 1902	2,174,257.47

Grand total, 1902.....	\$2,939,145.93
Balance cash on hand in treasury July 1, 1902	840,525.40

During the past year the million dollar mark was reached by the treasury. On the 18th day of June the State Treasurer had cash on hand, \$1,106,710.58

The approving board should be required to demand from each surety on the bond a property statement under oath to enable said board to pass upon the sufficiency of the bond. While the law permits the use of a surety or guaranty company bond, which in some respects, and particularly in matters of minor importance, is preferable to the average personal bond, a careful investigation has convinced me that this modern form of indemnity is not free from serious objections. An approaching panic might silently and swiftly cause a corporation bond to become utterly worthless, while a bond executed by fifty or one hundred of the substantial farmers and business men of the state would remain abundantly good for the protection of the state.

DEPARTMENT OF STATE.

The recommendations of the Secretary of State are worthy of most careful consideration.

The increasing number and value of the public and Supreme Court libraries would seem to demand immediate provision for their safe keeping. These valuable books are not only in danger of destruction by fire, but many of them are inaccessible by reason of lack of shelf room.

This report shows only in part the enormous increase in the work and responsibility pertaining to this department.

Special attention is called to the statement of the Secretary of State that in case of destruction or damage by fire of any of the buildings of the state institutions, the insurance money would be paid into the state treasury and would not be available either for repairs or rebuilding until duly appropriated by act of the Legislature. In this connection your attention is also called to the opinion of the Attorney General found on page 60 of his report. (See also page 44.)

THE LEGAL DEPARTMENT.

The report of the Attorney General shows 51 legal opinions rendered to state departments or subordinate officers, and 55 cases, most of them in the Supreme Court. This does not by any means represent all the labor of the Attorney General's office. During the

past two years, litigation, involving thousands of dollars, demanding legal ability of the highest order, has been receiving the untiring attention of this department. The salary of the Attorney General is not commensurate with the work and responsibility of his office.

With increasing population and wealth, the state should adjust itself to changing conditions and by constitutional amendment fix the salary of this state officer at a sum at least equal to that of the Auditor, Commissioner of School and Public Lands, and other state officers. For several years the Legislature has attempted to equalize this inequality by appropriating salary for an assistant, thus doing indirectly what can not constitutionally be done directly.

DEPARTMENT OF PUBLIC INSTRUCTION.

The report of the Superintendent of Public Instruction shows conditions which are most gratifying. During the two years ending June 30, 1902, 129 new school houses were built, many of them beautiful, commodious and costly. In the rural districts the levy for school purposes last year averaged but 6.1 mills, the lowest in our history, while higher wages were paid to the teachers, and the indebtedness of the school districts was reduced \$153,707. The indebtedness of both city and country districts decreased \$141,946, although \$218,936 was expended for new buildings and fixtures.

The rural districts in twenty-one counties have a surplus in their treasuries, and it is the opinion of the State Superintendent that

"Another year of debt paying like the last will see the rural schools of the entire state with a surplus of cash above all debts."

School boards and patrons are demanding a higher grade of teachers and are willing to pay higher wages. I believe the time has arrived when some normal training should be a pre-requisite to obtaining a license to teach in any public school in the state. With four excellent normal schools and many other state and denominational schools, giving an equivalent to one or two years of normal school work, there appears to be no excuse for employing in the public schools any one without special training for this most important work in civic affairs. The recommendation of the State Superintendent relating to certificates based on normal school training and free text books is, in my judgment, worthy of your most serious consideration.

Two years ago I ventured to recommend an amendment to section 5, article IX, of the state constitution, which provides that the term of county officers shall be two years, "and except the

clerk of the courts, no person shall be eligible for more than four years in succession," removing this limitation from the county superintendent. The State Superintendent makes the same recommendation. He says:

"A worthy teacher does not come to his or her greatest usefulness as county superintendent till the second term, and should be continued in the place so long as the work improves and the voters desire to continue him or her in the place."

"Cities noted for their splendid school systems make few changes in their superintendents and principals. The same may be said of our colleges and universities. While the people would retain full power to rid themselves of an incompetent official, it would be possible to reward honesty, ability and success by continuing the services of the model county superintendent."-[Inaugural Address, 1901.]

Two years ago a law was enacted providing for public school libraries. The wisdom of such a law is now conceded.

"Reports from county and city superintendents, teachers, parents and pupils are almost unanimous in praise of the school library which is found in every district in South Dakota."

REGENTS OF EDUCATION.

The State University, four Normal Schools, the Agricultural College, and the School of Mines,-seven educational institutions, are by the constitution placed under the control of a board of five members called Regents of Education. The biennial report of this board, prepared with great care, is replete with information, showing just what has been and is being accomplished, together with the requirements of each institution. The following extracts from this excellent report give a correct and comprehensive view of the advancement in the realm of higher education in the state.

"It is with a feeling of satisfaction that we present this report, for never before in the history of our educational institutions in this state has the attendance been so large or the work accomplished so good."

"The spirit of earnestness which has characterized the student body has been one of the most marked improvements in all the schools."

"The new buildings which were so generously provided by the last legislature will be available for the coming school year so that from present indications, we may expect even greater progress in the near future."

"There has never been a time in the past fifteen years when so much interest has been taken in the course of higher education." "The normal schools are rapidly finding themselves unable to supply

the demand. which is made upon them for competent teachers, not only from this state, but from all over the northwest."

The Regents recommend the following appropriations. (See page 28) :

	1903.	1904
Agricultural College.....	\$109,500	\$93,500
This is in addition to \$80,000 which will be received from the federal government. The amount received for 1901 and 1902 was \$79,500.		
University.....	116,264	61,264
Normal School at Madison	51,300	21,300
Normal School at Spearfish..... ..	:39,300	19,300
Normal School at Springfield	17,500	16,000
Northern Normal and Industrial School	59,500	14,500
School of Mines.....	23,300	46,300
Special Appropriations.....	6,500	6,500
Making a total of \$423,164 for 1903 and \$278,664 for 1904, and a grand total of \$701,828.		

Of these sums \$284,000 is asked for new buildings and improvements, to wit:

Agricultural College.....	\$116,000
University.....	50,000
Normal School at Madison	30,000
Normal School at Spearfish	20,000
Northern Normal and Industrial School	45,000
School of Mines	23,000
Total.....	\$284,000

CHARITABLE AND PENAL INSTITUTIONS.

It is with feelings of peculiar satisfaction that I have transmitted to you the splendid report of the Board of Charities and Corrections. Never before since the establishment of these institutions have they been in charge of officials possessing such pre-eminent qualifications and the complete confidence of the people. Never before have these institutions been so effectually under the control of a Board of Control in fact as well as in name. Never before have these institutions been managed so strictly in accordance with business principles so well recognized among successful business men. Today these institutions are distinctly state institutions, managed by the state and in the interests of the state. By purchasing the supplies in large quantities from the lowest responsible bidders large sums of

money have been saved. The following from the report of the Warden of the Penitentiary shows what has been accomplished since the appointment of Warden Swenson May 1, 1901 :

"Cost of maintenance per capita, exclusive of farm products, and including citizen and prison clothing, cash aid, and transportation, fuel and light, and officers' salary and board, from July, 1900, to June 30, 1901:

Cost per day.....	\$	73 2-5
Cost per month		22.02
Cost per year.....		267.91

From July 1, 1901, to June 30, 1902:

Cost per day .....	\$	.59
Cost per month		17.70
Cost per year		215.35 (See page 67).

Here has been effected a saving of \$52.56 per capita per annum. Based on the number of prisoners in confinement June 30, 1902, which was 160, there has been a saving to the state in this institution for one year of \$8,409.60, as compared with the former management.

The same careful expenditure of the state's money has been shown in every institution. The magnificent structure known as the rear-centre building of the Insane Asylum will remain an enduring monument to the untiring energy and business ability of Superintendent Mead. Every institution has made a record during the past two years which is very gratifying to the board and to the Executive.

A careful perusal of the report of this board will, I think. Justify the statement that it is one of the most instructive, satisfactory and valuable ever made to the Executive of this state. It is not only im possible but unnecessary for me to dwell upon individual recommen dations. While I assume that every member of the Legislature has read this valuable report, I desire to urge that it be made the subject of careful study by the Senate and House Committees on Charitable and Penal Institutions and State Affairs, and I recom mend that these committees, jointly or through a sub-committee, to gether with the' Warden of the Penitentiary and the President and Secretary of the Board of Charities and Corrections, be directed to thoroughly investigate and report upon the recommendations of the Warden for the establishment of a binder twine plant at the State Penitentiary. The Legislature of 1893, (Chap. 131) favored this enter prise, but the appropriation being insufficient, nothing was attempted by the authorities at that time. The prison twine-factory at Still-Gov. Ales.-s

water has been in successful operation for several years and practically put the Minnesota State Prison on a self-supporting basis. The sentimental objection to "convict labor" is unreasonable and not worthy of serious consideration. The law breaker is sentenced to a term "at hard labor" but is kept idle at the expense of the lawabiding citizens. Has it ever occurred to those who raise this objection that the enforced idleness of convicts is demoralizing to them, physically, mentally and morally, besides adding another burden to those who are forced to labor, not only for their own support but for the support of the prison population? The plan for some profitable employment for state prisoners is in consonance with the instincts of humanity and common sense.

The number of inmates of the charitable and penal institutions will necessarily increase with increasing population. From this fact there is no escape and it is the part of wisdom to anticipate coming events. In all human probability, before another session of the Legislature the Asylum for the Insane will be over-crowded. Perhaps the more urgent demand is for additional accommodation for the feeble-minded. Of this class Superintendent Kutnewsky reports 285 in the state, while there are now 69 in a building erected for the accommodation of only 48. Besides these, there are said to be about 600 epileptics in the state, and for this unfortunate class the state has made no provision whatever. I believe that the section of land owned by the state near the "Northern Hospital" should be secured for said institution in accordance with the recommendations of the superintendent.

Your attention is called to the reported donation to the state (P.34) 34) of two tracts of land-ten acres and six acres respectively- adjoining the Blind Asylum at Gary. The deed to the ten acre tract had been recorded, but the other deed when received from the board had not been recorded. As it was a grant upon conditions stated in the deed, and, having been unable to obtain a deed conveying to the state an absolute, complete and perfect title to said land, I have declined to assume the responsibility of accepting it. It is my judgment that the state should possess complete and perfect title to every foot of ground on which its public institutions are erected.

The acceptance and appropriation of said tracts in accordance with the suggestion of the board is respectfully referred to the legislature for final action.

THE SOLDIERS' HOME.

Two years ago, speaking of the Soldiers' Home, I said

"I shall consider it my sacred duty to cause to be established, and as speedily as possible, the most humane and perfect. management of said Home."

In the selection of commissioners I appointed five of the most prominent "old soldiers" and best known citizens in the state, two of whom served during the term of my predecessor in office and were recognized as leaders of the opposing political party, all having served in various positions of honor and trust and ranking among Dakota's most. distinguished citizens. It is the unanimous judgment of these commissioners that never before have the sanitary conditions of the Home been as nearly perfect, never before have the inmates received more affectionate care, never before have conditions of comfort and happiness been so well maintained, and never before has the Home been more economically and splendidly managed than during the past eighteen months. Dr. Bickmore, the surgeon, reports

"For the past year the mortality has been much less than previous years."

and attributes this largely to

"Regularity in eating, bathing and sleeping, and no exposure and also

"To the fact of the thorough sanitary conditions. * * *"

By order of the board the supplies of the Home have been purchased at wholesale. The Commandant reports that this innovation "has worked well." "The Home purchases goods as cheap as any retail house in town," thus affecting a great saving to the state.

He also says

"All supplies of every kind used in the Home have been of the best quality I could buy in the markets. All meats are fresh and fat and as good as any used by any hotel in town."

The following financial statement is taken from the unanimous report of the commissioners

"The per capita expenditure for maintenance is \$196.51 for the year ending June 30th, 1902, while the expenses for the three years ending June 30th, 1900, under Col. Linn's administration was \$236.04 each year. During the year 1901, ten months of which was under Linn's administration and two months under Lucas', the per capita expense was \$202.32, with a deficiency of \$800, that was included in the cost for 1902. Counting that out, the actual cost per capita for 1902 was only \$191.67. The increased cost of maintenance for 1902 over the previous year is owing

to the marked advance in the cost of food products."

I earnestly recommend an appropriation according to the estimates of the board. I particularly urge the appropriation of \$2000 for four cottages, and \$1000 for a well and fixtures. A new well will affect a saving of \$300 per year now paid for a limited city water supply. According to the testimony of the surgeon

"During the past year we have used the water largely from the well

in the Home grounds, the analysis of which shows it to be superior in medicinal qualities to that which has been used in former years."

Heretofore the Commandant has performed the functions of a probate court in distributing the estates of deceased members of the Home. This practice has been abolished. In attempting to deposit trust funds in the state treasury for temporary safe keeping, it was discovered that there was no law authorizing the same. I recommend the enactment of a law making the State Treasurer the custodian of funds pending probate proceedings establishing lawful claims upon moneys or effects left by inmates of the Home.

The commissioners report a shortage, inherited from the former state administration, of \$1,037.75, which is receiving the attention of the legal department of the state.

I recommend that the Commandant of the Home be required by law to give a bond to be approved by the commissioners.

The time has arrived for various changes in the management of this institution. Trained nurses should be employed in the hospital. Increasing age and feebleness precludes taking nurses, attendants and dining room employes from the membership of the Home. The members should receive the very best care and attention.

During the last three years, without authority, by common consent, a few worthy soldiers of the Spanish-American War have been received at the Home. The law should be changed to correspond with changed and existing conditions.

THE STATE MILITIA.

The maintenance of a national guard is traditional and constitutional in state and nation.

Sec T, Article 15, of the Constitution, provides that

"The militia of the State of South Dakota shall consist of all able-bodied persons residing in the state between the ages of eighteen and forty-five years, except such persons as now are, or hereafter may be, exempted by the laws of the United States or of this State."

Section 2:

"The legislature shall provide by law for the enrollment, uniforming, equipment and discipline of the militia, and the establishment of volunteer and such other organizations or both, as may be deemed necessary for the protection of the State, the preservation of order, and the efficiency and good of the service."

General Conklin correctly and eloquently states the condition existing March 9, 1901

"There was nothing left of the old National Guard except Battery A at Clark and Troop B at Deadwood, and a record so glorious in the Philippine War that it will stand an object lesson to the chivairous and brave of every land until the evening stars shall fade away."

The Legislature which adjourned the 8th day of March, 1901, appropriated \$6000.,---all that the Commander-in-Chief asked for---estimated barely enough for organization and maintenance for two years.

For this work I selected a man whom I knew from a long personal acquaintance to be pre-eminently qualified by education, experience, and individual force of character, for the manifold duties devolving upon the Adjutant General. On March 9, 1901, thoroughly aware of the difficulties to be encountered, Iron. S. J. Conklin accepted the appointment, and from that day until this hour, with singular energy and enthusiasm, he has devoted all his time to the service of the state. How well he has succeeded, even beyond the most sanguine expectations of his friends who prevailed upon him to undertake the work and expected success, will be manifest by a careful perusal of the report of this department.

On March 15, 1901, the Adjutant General was directed to proceed at once to organize and equip a regiment of infantry and one troop of cavalry. Sixty days later the General reported that this order had been complied with and recommended the organization of a second regiment of infantry and one more troop of cavalry. Accordingly an order was issued and the Second Regiment sprang into existence.

Through the enterprise and liberality of public spirited citizens two general encampments of the State Militia have been held, at Huron and Watertown, besides one encampment of five companies at Yankton and one of six companies at Aberdeen. Besides the generosity of these cities, credit should be given to the Chicago & NorthWestern and the Chicago, Milwaukee & St. Paul railroads, for grant-

ing a one cent per mile rate for the soldiers (who paid their own travelling expenses) and free transportation for military supplies and equipments. Two splendid regimental bands donated their services and paid their own expenses. But these volunteer services, expenses and sacrifices on the part of the soldiers and the citizens cannot be expected to continue. What has so far been accomplished has been with the expectation that the next Legislature would make such an appropriation for the support of its State Militia as would insure the maintenance of a national guard in this state that in every point of excellence would favorably compare with the same number of troops from any state in the Union. Today every company is composed of the brightest, the most vigorous, the best young men of the state. The officers have been selected with the greatest care. I am proud of the men who so cheerfully responded to the call to arms for educational purposes, and every one of whom would just as cheerfully respond if called upon to defend constitutional liberty and the flag of our country.

The recommendations of the Adjutant General have been carefully considered by him, and have my unqualified approval.

I deem it unnecessary to argue the importance of maintaining a national guard. Today, by force of events beyond our control, the United States is a world-power, the most important factor in the tremendous march of civilization. A large standing army is contrary to our traditions and the spirit of our institutions. But a free people should in the future, as in the past, on a moment's notice be able to produce an army of volunteers, great, splendid and unconquerable. Today, in the councils of the powers of the world, the influence of the United States must be for the cause of righteousness among all men. Our government must in the future as in the past, be able to protect itself and enforce obedience to its just demands, if necessary, by force of arms.

Members of the Legislature: In the language of the Adjutant General, a state guard composed of two regiments of infantry of twelve companies each, three companies of cavalry and one of artillery, numbering 1,239 officers and men, which has sprung into exis-

tence as if by magic, and representing the best element of patriotic young men we have in the state, now stand at "parade rest" awaiting your action !

THE NORTHERN NORMAL AND INDUSTRIAL SCHOOL.

The Legislature of 1901 appropriated \$28000 for the erection of a building for the Northern Normal and Industrial School to be completed and ready for occupation before the first day of September, 1902. This building was nearly completed when it was almost totally destroyed by fire, causing a serious loss to the contractors. The amicable adjustment resulting in a new building reflects great credit upon the Regents and Franzen & Brother, the contractors.

In January, 1902, the Regents selected a faculty for this institution and prepared for opening the school the first week in September. This was done, and today this school is in a flourishing condition with an attendance of 130 students. President Koehler reports to the Regents that

"The necessity of the school is an ample and modern ladies' dormitory and boarding hall."

The Regents make the following recommendation

"Increased appropriations will have to be made both as regards the salary list and maintenance, and the regents are unanimous in urging that an appropriation of at least \$40,000 be made for the construction of a ladies' dormitory, which is very badly needed, and will be almost indispensable for the success of the school."

South Dakota has seven state educational institutions, but this is the only one located in the northern part of the state east of the Missouri river. In the buildings for the six institutions the state has invested at least three quarters of a million dollars. The Legislature of two years ago appropriated nearly four hundred thousand dollars (\$396,469) for these six institutions for educating the young men and women who live largely in the adjacent counties, and it has been found by the Regents to be a fact that

"The large majority of students do not go more than fifty miles from home for the first time to attend a higher institution of learning."

The influence radiating from an institution of learning is well understood by all who are engaged in educational work. The Superintendent of Hand county reports to the State Superintendent as follows

"The absence of any high grade educational institution in this county wherein teachers can be properly prepared is another drawback. The col-

leges at Huron and Redfield because of their nearness are a great help, *
* * but these institutions cannot make their influence felt as they do in
the con •ties where they are located."

That portion of the state tributary to the Northern Normal and Industrial School, being the more recently settled and organized counties, has an assessed valuation of \$51,645,926, and contributes 30 per cent of the taxes for the support of the other six institutions. Here we find eighteen large counties 33,163 children of school age, employing 1,681 teachers in its public schools. From nearly every one of these counties comes the cry, "Give us more an better teachers." One county superintendent in his annual report to the State Superintendent for 1902 says

"We are compelled to depend largely upon the outcasts of other
counties for our teaching force."

In some of these counties the superintendents have found it necessary to go into neighboring states and advertise for teachers. I know whereof I speak from an experience of twenty years. If this normal school could graduate one hundred teachers each year for twenty years. even then it would not be able to furnish graduates enough for the schools in said counties.

In the name of all the children who are as justly entitled to receive instruction from teachers educated at the expense of the state as the children in the other counties, I earnestly plead for the appropriations recommended by the Regents for the Northern Normal and Industrial School located in Aberdeen.

STATE BOARD OF HEALTH.

During the present state administration three of the most eminent physicians in the state have, by appointment, been added to the State Board of Health : Dr. H. E. McNutt, April 5, 1901 ; Dr. D. W. Robinson, April 7, 1902; and Dr. C. B. Alford, September 13, 1902. This board consists of five members and the term of office is five years. The member serving his last year, regardless of location or qualifications, becomes the president and superintendent of the board. The law creating this board contains some remarkable and objectionable features, one of them being the unlimited possibilities in the matter of fees fol• the superintendent for issuing licenses. The report shows

"There have been during the past two years, Dec 1, 1900, to date, 313 physicians and osteopaths licensed to practice in this state. The law

prescribes a fee of \$10 for each certificate issued, the fee being a part of the salary of the superintendent of the state board of health. The amount so collected is \$3,130. Of this amount \$440 was collected by Dr. A. E. Clough, from December 1, 1900, to April 1, 1901; \$1,320 by Dr. William Edwards from April 1, 1901, to April 1, 1902; \$1,120 by Dr. A. H. Rogers from April 1, 1902, to September 13, 1902, and \$260 by Dr. C. B. Alford from September 13, 1902, to date." The brief term of Superintendent Rogers terminated abruptly September 13, 1902.

The license money should be turned into the state treasury. The president should be elected by the board, annually. The officers and members should be paid a reasonable compensation for their services. The best service to the state sometimes occurs when some application for a license is rejected, although it means a financial loss to the superintendent. An emergency fund should be provided. During the year i of small pox broke out and became epidemic in certain localities. Thorough vigorous efforts on the part of the board this dread disease was kept under control. The self-sacrificing efforts of Dr. McNutt are worthy of more than official commendation

"At the instance of Dr. William Edwards, the then Superintendent of the State Board of Health, Dr. McNutt went_ to the infected district, visited all suspected of having the disease, quarantined at least 175 cases and vaccinated or caused to be vaccinated 2,000 people and was upon the infected territory several weeks. He placed quarantine cordons at certain places and at last, when the epidemic had been brought to an end, all places were properly disinfected, and the disease was almost or quite effaced in the short period of two months. Yet for this service he obtained no compensation for the reason that there were no available funds for even such an emergency."

The report contains several important recommendations which should receive the most careful consideration.

FOOD AND DAIRY COMMISSIONER.

The Legislature of 1899 enacted a Pure Food Law which remained in-operative until the following Legislature created the office of Food and Dairy Commissioner for its enforcement and for regulating the manufacture and sale of dairy products. On March 8th, 1901, this appointment was tendered to C. P. Sherwood, the Secretary of the South Dakota Dairy and Buttermakers' Association, and he at once entered upon the duties of this most important office. He soon discovered that the immediate work should be educational: first,

to bring the requirements of the pure food laws to the attention of the manufacturers and dealers, as well as the consumers; second, by inspection and analysis of the goods sold in the state lay a good foundation for future vigorous enforcement of the law. This preliminary work has been done with fidelity and success worthy of special commendation. Professor J. H. Shepard, chemist at the State Agricultural College, was employed as analyst for this department, and the reports of this eminent scientist, through bulletins, have been published for the benefit of local dealers and consumers. The time has now arrived when the sale of adulterated goods should be treated as a serious crime against the people of the state and offenders prosecuted to the full extent of the law. A change in the law relating to prosecutions, as suggested by the Commissioner, and a reasonable appropriation for the enforcement of this law, so essential to the health and well-being of the people, showing a legislative approval of a vigorous policy, would of itself produce a reformation and substantial relief.

This interesting report shows 153 licensed creameries and 10 licensed cheese factories in the state. While the number of these factories has not increased materially during the past year, the volume of business has increased at a rapid rate, showing increasing profits to those engaged in these increasing industries of our state.

At the last annual meeting of the State Dairy and Buttermakers' Association, resolutions were adopted endorsing the action of the last Legislature in creating the office of dairy commissioner and urging a larger appropriation for this department; also endorsing the efficient work being done by the present Dairy Commissioner for the dairy interests of the state.

INSPECTION OF ILLUMINATING OILS.

For a number of years the state has had a law providing for inspection of illuminating oils. After nearly two years of arduous work the present Oil Inspector in his report for the year ending December 31, 1901, declares that

"The inspection law of our state, to say the least, is simply a burlesque."

Strenuous efforts have been made with biennial regularity to enact some law that would protect the state from being the dumping ground for inferior oil that cannot be disposed of in other states. The adjournment of the Legislature is usually celebrated by a particularly

noxious stench from every lamp chimney in the state. These distressing conditions have at various times become intolerable. I am informed by the Oil Inspector, whom I appointed on the 8th day of March, 1901, and who has diligently and faithfully endeavored to perform the duties of his office, that he has been continually deceived, hampered and annoyed by representatives of oil companies who evade the existing laws with impunity, and I recommend that he be called before the proper committee of this Legislature in order that his experience may be utilized for the enactment of such a law as will be fair to the producers and dealers and just to the people of the state who look to this Legislature for relief from a commercial tyranny.

DEPARTMENT OF INSURANCE COMMISSIONER.

The attention of the Legislature is called to the opinion of the Supreme Court, filed October 20, 1891. (2 S. D. 325) This was an action by the Masonic Aid Association of Dakota against the State Auditor. The petition alleged that application had been made to the Auditor for a certificate of authority to do business in the state ; that the auditor refused to issue it because the association had not paid the 2 per cent tax on the gross amount of its assessments into the state treasury as required by law. This fact was admitted by the association, but it claimed exemption from payment because "it is a secret, benevolent and fraternal society." This was denied by the auditor, who maintained that the name of the association and its operations were misleading and that it was in fact an ordinary life insurance association. The Supreme Court held that this association could not be termed "a fraternal organization." "It has none of the incidents usually connected with such associations. * * * Neither can it be claimed to be a benevolent society paying sick or death benefits. The name of the society will not necessarily fix or establish its real character."

The decision of the court was that

"The Masonic Aid Association, now under consideration, was incorporated under the general incorporation act, and in every consideration of the case this organization must be regarded as a mutual benefit association, and not a secret, benevolent, or fraternal society which pays sick or death benefits to the widows and orphans or heir or relative of deceased members, and does not come within the proviso of Section 53 of the insurance laws of South Dakota."

The report of the Insurance Commissioner shows that regardless

of this decision this company had paid no taxes upon its business from that date until a vigorous effort was made by the present commissioner to collect the accumulated delinquent taxes amounting to \$3,218.29. Of this sum \$2,255.03 has been paid, leaving a balance of \$963.26, which the factotum of said association forgot or neglected to pay before his departure from the state.' This matter is now receiving the attention of the legal department.

The state was clearly entitled to said sum of delinquent taxes from die Aid Association (name afterwards changed to the Western Masons' Mutual Life Association of Yankton) and it is equally clear that it was the duty of the commissioner to collect said taxes.

On the 21st day of August, 1901 (See p. XIII, report of Insurance Commissioner, 1902), the Attorney General of the state in reply to a letter from the Commissioner requesting his opinion, construed Section 53, Chapter 51, Laws of 1890, to mean that

"it was not the intention to exempt any of the orders that issue insurance policies and that collect assessments for the purpose of paying insurance, but it was the intention to exempt only such orders as the Odd Fellows the Masons, the Knights of Pythias, the other kindred orders that pay small 1 sums to the widows and orphans of deceased members out of their general treasury without making special and stated assessments for the same and who do not issue any insurance policy but merely pay these benefits as incidents of such membership."

The opinion of the Attorney General concludes as follows

"it follows, therefore, that such secret, benevolent or fraternal societies whose chief object is insurance, and who issue an insurance certificate or policy and collect stated assessments upon some universal basis for the purpose of paying such insurance would be required under this section to pay the 2 per cent upon the gross amounts of such assessments."

Acting upon the advice of the Attorney General the commissioner demanded taxes which he believed to be due from various fraternal associations doing business within the state. An action is now pending in the Supreme Court that will settle these vexatious questions.

The Commissioner recommends changes in existing laws which should receive your careful consideration.

This report shows that during the past thirteen years an average of 49.7 per centum of the premium receipts of fire insurance companies collected in this state has been sufficient to pay all losses sus-

tamed, and that for the past year only 44.9 per centum of premiums was required for losses. "This," says the Commissioner, "is premium receipts alone and does not include receipts from other sources, as interest from invested surplus."

By a general agreement about one year ago the companies advanced rates 25 per cent in this state, equivalent to over \$100,000 per annum. On the basis of the old rate, 55 per cent was allowed for operating expenses and dividends to stockholders. From the following quotations of insurance stocks (See The Chronicle, October 23, 1902) it would appear that the dividends without a 25 per cent increase in rates ought to have been entirely satisfactory to the stockholders

Name .	Par Value.	Latest Sale Per cent.
Continental.....	100	671
German-American.....	100	600
Germania	50	313
Greenwich.....	25	171
Home	100	325
Niagara	50	255
Phenix	50	230
Westchester	10	400
Phoenix.....	100	550
Travelers.....	100	450
German (Freeport)	100	500
Williamsburg City.....	50	570

It is claimed that states having what is known as anti-compact laws enjoy lower rates. If such a law tends to check unbearable avarice, South Dakota should try this remedy.

The Commissioner recommends the enactment of what is known as the "valued policy" law. Upon investigation he has found that twenty-states have such a law in successful operation, among them the great states of Minnesota, Wisconsin and Ohio, and the companies doing business in South Dakota are operating in those states at rates ranging from 10 to 40 per cent less than our people are compelled to pay. The arguments pro and con are quite familiar to all who have given fire insurance any consideration.

While I am not prepared to fully endorse a "valued policy" law including all classes of property, I can see no great danger from applying it to buildings. It appears to me that it is far less difficult to establish the actual value of a building before it is destroyed by

fire than afterwards. Suppose the buildings owned or occupied by the members of this Legislature should be destroyed by fire today, how many tomorrow could, under oath, accurately and positively describe their buildings, size, grade of lumber, etc., etc, for the purpose of proving themselves innocent of over-insurance? It is the incendiary, who anticipates trouble, who is prepared with specifications and proofs. A fire is profitable only when over-insurance has been allowed. If so, it would seem that a law which prevents over-insurance will, discourage incendiarism. At any rate, it is not self-evident as a matter of reason or from the experience of other states, that the matter of a "valued policy" is not open for a fair discussion and honest difference of opinion. The recommendations of the insurance department of this state has called forth from the insurance companies and their organs a tirade of abuse, which, to a person honestly trying to solve this problem, does not inspire confidence in the cause which they advocate. Not only have some of their advocates become impudent and abusive, but one of them as if in anticipation of adverse legislation declares that "the average legislator knows very little about insurance matters" and this quotation sounds like intimidation

"Should the legislature of South Dakota enact a valued policy law, as suggested by Mr. Shober, perhaps the insurance companies will withdraw in a body from the state, as they did when a similar statute was passed in Nevada last year. The situation became so dangerous to the business interests of that state that an extra legislative session was about to be convened for the repeal of the law when it was very conveniently found to be unconstitutional. Let the legislators in South Dakota take warning and not act too hastily upon so important a matter."

It may be just as well to have a clear understanding in advance, and I take this opportunity of saying to all concerned that even if the Legislature should pass a valued policy law, there will be no extra session in this state during the next two years.

These are matters of tremendous importance to the people of this state, and should, and I am confident will, receive your most conscientious consideration. That the insurance companies are abundantly able to take care of themselves seems evident from the following Associated Press special from Des Moines, Iowa, dated October 19, 1902:

"Last winter some insurance legislation was attempted in the direction of having a legalized uniform policy, but the insurance lobby, the most powerful one which controlled the legislature, refused to allow any such

legislation. The insurance combine had had men employed all the year previous at work "fixing" the newspapers and educating the public on the necessity for no legislation."

STATE GEOLOGIST.

The State Geologist has been pursuing a line of investigations of tremendous importance to the state. I have recently received from him a communication in relation to the artesian water supply within the state, which I shall transmit to the Senate and House Committees on State Affairs.

I recommend an appropriation for the State Geologist commensurate with the importance of the work in this department.

STATE VETERINARY SURGEON.

The work of the State Veterinary Surgeon has been performed with singular energy, ability and fidelity. The report of this official for the year ending June 30, 1902, shows that during the period covered by said report, in the performance of the duties of his office, and to which he has been devoting all his time since his appointment, he has travelled 16,640 miles by rail and 1,247 miles by team, a total of 17,887 miles. Through his untiring efforts anthrax and other dreadful diseases were vigorously combatted and eradicated. Had it not been for the action of the last Legislature in providing for a salaried veterinary surgeon it is now evident that the losses among the stockmen of our state would have been enormous. On behalf of the rapidly increasing stock and dairy interests of the state I recommend this branch of the public service to your most favorable consideration.

STATE MINE INSPECTOR.

The report of Hon. Thomas Gregory, State Mine Inspector, is worthy of especial commendation.

During the year ending November 1st, this official visited all the principal working mines in Lawrence, Pennington and Custer counties, and ascertained that their operations were being "conducted with the strictest regard for the security of the lives and bodies of employes."

From this excellent report I make the following quotation

"The utmost precautions are observed to minimize the danger to which men employed underground are exposed. Approved regulations are in operation with regard to the accessibility, means of ready exit and ven-

tilation of mines and places where persons are engaged below the surface of the ground, and hoists, ladders, man-ways and other entrances are maintained in good condition to afford convenient avenues of escape in the event of accident or fire. I have received no complaints from mine employes."

"The kindest relations obtain between employers and employed in the mines of the state, and there is not a case of complaint over compensation or treatment. I have been given valuable assistance by mine owners and operators while in the performance of the duties of my office, and regulations that I have prescribed have been promptly complied with."

Through the excellent management of President Slagle the School of Mines has had a remarkable growth and now commands the confidence not only of the mining men, but all the people of the state. Alr. Gregory calls special attention to the important work for the mining interests of the state that is now being done

"In preparing young men by technical instruction and practical demonstration for careers as assayers, chemists, mining engineers and metallurgists, enabling the mine companies to secure at home technical assistants of the highest efficiency. The school is also proving of great benefit to the mining industry by its constant endeavor to overcome the problems that are encountered in the field of metallurgy."

During the year there were twenty-two accidents, thirteen of which were attended by the loss of life, and nine by serious injury. Every case was carefully- investigated by the Mine Inspector.

The number of men employed as laborers in the mines is 3,207. The gold product for ten months (except the Homestake mine, which reports for 12 months) is given as \$7,342,227.56.

In a supplementary report, (December ii, 1902,) the Mine Inspector recommends a universal system of bell calls which should be adopted in all the mines of the state; also various regulations which experience has demonstrated to be essential and should be enforced by law. He says:

"It is desirable that certain laws be enacted for the government of the mining industry and the regulation of operating mines, having in view the minimizing of mine accidents and the greater security of mine employes. There is evinced by mine owners, managers, lessees and persons in charge of mining operations in the state a desire to prevent loss of life or injury to employes, and I have observed a cheerful compliance with requests and suggestions I have made for the remedying or removal of elements that seemed to threaten accident; but there are practices that

should be regulated, and in my opinion this can best be accomplished by legislative action."

I hope and believe that the carefully considered recommendations of the Mine Inspector will receive your favorable consideration.

STATE BOARD OF EMBALMERS.

The report of the State Board of Embalmers is commendable, not only for what it contains but for what it does not contain. The remarks of the secretary are brief and to the point. There is a most refreshing candor in his pathetic suggestion "to dispense with" one of the members of the board at its annual meetings. The evil complained of is the result of too much class legislation.

STATE ENGINEER OF IRRIGATION.

The report of the State Engineer of Irrigation reminds us that this office is now hardly more than a reminiscence of a period, brief but terribly intense, when the rain-maker was permitted, perhaps encouraged, to ply his vocation with apparent erudition and great enthusiasm.

"Upon entering the duties of my office," says Professor Shepard, "my predecessor turned over to me all the little material there was belonging to the office of the State Engineer of Irrigation. These supplies consisted of a few copies of an old report of the State Engineer of Irrigation; a few miscellaneous blanks, most of which were antiquated; a few reducing nozzles for artesian wells; a small spirit level, useless, broken. There were no records, nor correspondence, nor data whatsoever showing what had been done previously by my predecessors. The fact soon developed that there is at present no abiding interest, at least in the eastern portion of South Dakota, lying east of the Missouri River, in the subject of irrigation. Further investigations show that a very small percentage of the artesian wells already constructed were used for irrigation and that no new wells were being sunk for that purpose. It also soon became apparent that the duties of the office were simply of a perfunctory character in order to enable townships and other parties intending to sink artesian wells to comply with the law as it now exists." Again

"I found that the state had made no provisions whatever for salary, traveling expenses or incidental office expenses, * * * consequently I have been obliged to ask the people interested in the location of wells to furnish me the necessary traveling expenses."

This he considers an imposition upon the townships that desire
Gov. tles.-3

wells located, when the work might just as well have been done by local officials. Without an appropriation for at least actual expenses, he characterizes the office "simply a farce and a burden to the people."

"In my judgment," he says, "it would be better for the office to be abolished, and the law so amended that the location and acceptance of wells may be performed by local officers."

In view of the recent act of Congress contemplating a comprehensive system of irrigation and the expenditure of vast sums of money, your honorable body may deem it the part of wisdom to continue this office pending developments that may be of considerable direct interest to counties in the western part of the state, and indirectly to the entire state.

PRINTING AND DISTRIBUTION OF REPORTS.

The laws relating to the preparation, printing and distribution of the reports of the state officers and boards are inharmonious, indefinite, irrational and inoperative, and should receive the attention of a competent committee.

Experience and observation have convinced me that after the opening of the legislative session, a legislator's time is so occupied that it is almost impossible for him to read and consider these documents which contain information and recommendations prepared for the use of the legislative branch of the government. Without authority or precedent, by persistent efforts, I have obtained and sent nearly all of the official reports to the members of the legislature.

The law should clearly designate the officers and boards required to make such reports, whether annually or biennially, the number of copies of each report, and in general terms what such reports should contain. As the fiscal year ends June 30th, the report in manuscript should be completed and a copy delivered to the public printer not later than September 1st; that on or before the first day of December a printed copy of each report should be officially signed and placed on file in the office of the officer or board making such report and also in the office of the Governor and Secretary of State; that all the printed copies of each report, except a dozen copies for the use of the officer or board making the report, should be duly delivered to the Secretary of State (who is the commissioner of printing) not later than the first day of December, and whose duty

it should be to immediately distribute such reports in manner to be provided by law, including sending one copy of each report to every member-elect of the legislature at least thirty days before the first day of the session of the legislature.

ELECTION RETURNS AS A BASIS FOR SALARY OF COUNTY OFFICIALS.

Sec. 10, Ch. 2 of Ch. 113, Laws of 1901 provides that the county superintendent shall receive a salary payable monthly to be determined * * * by the value of the property and by the population of their respective counties, and that

"The entire vote of the county multiplied by five shall be the basis of reckoning the population."

I recommend that this clause be amended to read as follows:

The entire registration list as filed by the county auditor by the various boards of election in each county, multiplied by five, shall be the basis of determining the population.

The law as it now stands places the salary upon a fluctuating, elastic and uncertain basis. At the recent election probably less than seventy per cent of the full vote of the state was cast. The result is a material reduction in the salary of the county superintendent of every county, estimated at from one hundred to three hundred dollars per year for the next two years. Such a shifting basis should be abolished. We now have a legal and correct way of ascertaining the exact number of votes, established by law (Ch. 86, Laws of 1899) which requires all legal voters to be registered by the assessor, and provides that those who are omitted by the assessor, or who move into the county and establish their residence after the registration on the population as determined by the vote, then it seems to me selfevident when an absolutely correct and legal standard has been established by law by which the exact number of legal voters can be ascertained, that standard should be used directly for determining the exact population, and indirectly for reckoning the superintendent's salary. This proposition is so simple that it needs but to be stated to be approved. A county seat fight, or other exciting causes may in one county bring out a remarkably large vote, while in the next county, on account of various conditions that might be mentioned, less than fifty per cent of a full vote may be cast. In the former county the salary of the superintendent would be abnormal-

ly large, while in the latter county it might be reduced to a point where it might be impossible to fill the office with a competent and worthy man.

The proposed amendment will not increase any superintendent's salary; it will simply give him his full salary, contemplated but not guaranteed by the present law.

The salary of the judge of the county court is regulated by Sections 2 and 3 Ch. 104, Laws of 1901, and is upon the same basis and subject to the same objections.

REPAIR OF PUBLIC BUILDINGS.

A careful examination of the various recommendations by the different boards reveals what implies a startling decay of the public buildings of the state. Two years ago \$13,200 was appropriated for repairs. This legislature is asked to appropriate over thirty thousand dollars for the same purpose.

The following from the report of the Regents of Education (p. 20) it seems to me is timely and worthy of special consideration:

"If fewer buildings were constructed, but of a more permanent character, the state in the end would be benefitted more largely. Where appropriations are numerous but insufficient, the state is bound to have less beneficial results than if the appropriations were fewer and larger. In the long run, there will be much more satisfactory results in constructing buildings solidly and permanently. The sum of money annually spent for repairs is saved, and, all in all, the state makes a better investment of its means. If it is not possible to satisfy all the demands from all institutions, a choice should be made in selecting such as are most necessary and then giving ample money to carry out the work properly and efficiently. Nothing can be more disastrous in the long run than the policy of building a large number of cheap and relatively temporary structures."

REVISION OF THE LAWS

On the 7th day of May, 1901, "by and with the advice and consent of the judges of the Supreme Court," I appointed "a commission of three competent and worthy persons, learned in the law, to revise and codify the laws of this state" in accordance with Ch. 183, Laws of 1901.

This commission consisted of Hon. Gideon C. Moody, Hon. Bartlett Tripp and Hon. James A. Brown, each of whom accepted the appointment and the responsibility and entered upon the work contemplated by said Act. I am informed that the commissioners

have completed their labors and that each of the codes will be ready for presentation to the legislature on the first day of the session together with their report, as contemplated by the Act creating the commission.

I would recommend that the work of the Commissioners be adopted without delay and the passage of acts adopting these Codes during the first week of the session in order that all bills that may be introduced amending or changing the laws of the state may refer to the sections, chapters and articles of the Revised Codes of 1903.

"THE LABORER IS WORTHY OF HIS HIRE".

The Soldiers' Home is under the control of a board of five commissioners. The law directs that "no compensation shall be allowed any member * * * except officers, save actual expenses."

The seven educational institutions of the state are' under the control of a board of Regents of Education consisting of five members. The members of this board receive no compensation, but are allowed five dollars per day for each day's actual service to cover all expenses. For a meeting lasting three days the members receive less than actual expenses for hotel and railroad fare.

During the last biennial year this board disbursed appropriations amounting to \$433,100, besides tuition fees, etc., a total of nearly half a million dollars. Two thousand five hundred students under the guidance of one hundred and fifteen teachers are being educated at these schools-a fact of far greater importance to the people of the state than the expenditure of their money.

The charitable and penal institutions of the state-six in number-are under the control of a board consisting of five members, who receive three dollars per day and expenses. During the last biennial period this board disbursed the sum of \$387,148.

These boards as now constituted are composed of men pre-eminently qualified for the discharge of the duties devolving upon them, but with business cares and professional duties demanding all their time and energies-"men," to quote the Secretary of the Board of Charities and Corrections, (p. 8) "business men who are obliged to attend the board meetings at a sacrifice of their own affairs. They, therefore, cannot spare the time to thoroughly investigate the affairs of each institution visited (which is usually four or five each month) as they would like to do, and as they believe should be done."

The men who accepted these positions are holding them as a personal favor to the Governor, who selected them on account of his personal acquaintance with them and his implicit confidence in their personal honesty, integrity and ability.

The people of this state expect and demand the highest order of business ability in the management of their public institutions. For these services I believe they are now ready and willing to pay a fair compensation. Gratuitous services are no longer expected, and, I am convinced, are not desirable or profitable. Older states may possess a leisure class of men of great wealth, able and willing to serve the state without pay. Here, we must seek men in active life, the men who do things, who accomplish results. For this class of energy and ability- and the state cannot afford any other class we should render a fair compensation.

In this connection I desire to call attention to the recommendation of the Board of Charities and Corrections. (See p. 8.)

GOOD ROADS.

Charles Sumner once said : "The road and schoolmaster are the two most important agents in advancing civilization." In a message to Congress President McKinley urged the importance of good roads, saying : "There is a wide-spread interest in the improvement of our public highways at the present time, and the Department of Agriculture is co-operating with the people in each locality in making the best possible roads." People generally are beginning to realize that good roads not only have a positive money value to the farmers and to the townspeople, but a social and moral value by virtue of the convenience, comfort and refining influences which good roads diffuse throughout the rural regions. Good roads, like good streets, make habitations along them desirable. Good roads economize time and force in transportation of products. Good roads reduce the wear and tear on horses and wagons. A farm twenty miles from town, on a good road, is for all practical purposes no farther from market than another farm ten miles distant on a poor road. Good roads raise the value of farm lands and the products of the farm. It has been carefully estimated that 99 per cent of the tonage handled by railroad, steamboat or express must be carried in a wagon over a highway. It is evident that the problem of good roads, while of primary importance to the farmer, is one of tremendous importance to the general public. This fact

has been recently recognized by more than half a dozen states where crude laws and antiquated systems of highway improvement have been supplanted with highway commissioners having competent jurisdictions and exercising intelligent supervision over road affairs.

The importance of this subject has been emphasized by the establishment of rural free mail delivery, a service which President Roosevelt says "is no longer in the experimental stage ; it has become a fixed policy." "It is justified," says the President, "both by the financial results and by the practical benefits to our rural population ; it brings the men who live on the soil into closer relations with the active business world; it keeps the farmer in daily touch with the markets; it is a potential educational force ; it enhances the value of farm property, makes farm life far pleasanter and less isolated and will do much to check the undesirable current from country to city." The daily newspaper with the market reports is no longer a stranger in the home of the farmer favored with free mail delivery. But these modern advantages can only be obtained through a system of good roads. It is an established rule of the postoffice department that the establishment of good roads is a "prerequisite of the establishment of rural free delivery service." The great obstacle in the way of free rural mail routes is the absence of roads over which carriers can cover sufficient territory in a given time with regularity at all seasons of the year.

In this as well as in nearly every other respect, our state is as fortunately situated as perhaps any other state in the union. Here good roads can be made at a small expense. What we need is up-to-date methods. In this connection I would recommend the abolition of the primeval custom of "working out" the poll and road tax. This custom originated at a time when money was scarce and the scattered pioneers were desperately in need of some kind of a trail through the wilderness. The well known farce of working out the road taxes has been well expressed by Sam Walter Foss in his recollections of his boyhood on the farm

WHEN WE WORKED OUR TAX OUT.

Oh, our life was tough and tearful, and its toil was often fearful,
 And often we grew faint beneath the load ;
 But there came a glad vacation, and a sweet alleviation,
 When we used to work our tax out on the road.
 When we used to work our tax out, then we felt the joys of leisure,
 And we felt no more the prick of labor's goad ;
 There we shared the golden treasure of sweet rest in fullest measure,
 When we used to work our tax out on the road.

* * * * *

When we used to work our tax out (if I let the bottom facts out),
 We had somnolent contentment and repose:
 With no toil or work to cumber us, our rest was sweet and slumberous.
 And in deep, delicious dreaming did we doze.
 The drowsiness of languid rest o'er every man was creeping,
 And in a calm, serene contentment we all threw down our load
 Careless of life's wall and weeping, every blessed man was sleeping,
 When we used to work our tax out on the road.

I could mention more than one county in the state where for twenty years or more the road tax has been "worked out," and the only tangible evidence of this fact consists in huge packages of cancelled warrants on the county fund drawn for imaginary services on the part of the district road supervisor.

I believe the subject of good public highways is worthy of your individual best thought, your most careful deliberation.

THE GAME LAWS.

During the last two seasons extraordinary efforts have been made to enforce the game laws of our state.

"It is utterly foolish," says Theodore Roosevelt, "to regard proper game laws as undemocratic, unrepblican. On the contrary, they are essentially in the interests of the people as a whole, because it is only through their enactment and enforcement that the people as a whole can preserve the game and can prevent its becoming purely the property of the rich, who are able to create and maintain extensive private preserves. The very wealthy man can get hunting anyhow, but the man of small means is dependent solely upon wise and well-executed game laws for his enjoyment of the sturdy pleasure of the chase.'"The Deer Family, p.20. In addition to the penalties now prescribed, the law should provide for imprisonment in the county jail for not less than ten days nor more than six months. This I believe would have a salutary effect upon hunters who are not sportsmen, who are willing to take the risk of paying a fine, but to whom a jail sentence would be a matter of supreme humiliation.

While earnestly favoring the most vigorous enforcement of rigorous game laws; prohibiting hunting out of season ; the pot hunter "who simply kills for the record of slaughter;" the transportation of game out of the state,-as police regulations based upon public policy, I am unable to endorse laws which require a license from non-residents. Such laws savor of provincialism, sectionalism and seem to me contrary to the spirit of our institutions.

However, if a license is required the fee should be paid into th state treasury, for the enforcement of the game laws of the state

FORT SISSETON.

In 1889 Congress granted to South Dakota one section of land of the Fort Sisseton Military Reservation, upon which the buildings formerly used in connection with said fort are situated, to be used by the state as a permanent camp and parade ground, and for such other purposes in connection with the training and education of the militia of the state as the Legislature might direct, upon the following conditions

"Provided, however, that whenever the State of South Dakota shall cease to use said lands for the purposes herein named, said lands shall revert and become the property of the United States."

By special message, dated February ii, 1901 (House Journal, p. 782) the attention of the Legislature then in session was called to the possible forfeiture of the state's right, title and interest in and to said tract of land. The legislature promptly enacted Ch. 175, Laws of 1901, and also passed a joint resolution requesting Congress to grant to the state absolute title to said land. In March, last, I brought this matter to the attention of our congressional delegation, and in June a bill passed the Congress by which the said grant was "confirmed and made absolute in the state, freed from the conditions" originally "imposed," but providing that "the proceeds thereof, if sold, to be used in aid of the militia of the State of South Dakota."

The fifteen large and costly buildings on this tract of land, are described in the report of the Commissioner of School and Public Lands.

DENTAL LAWS.

Section 2, Chapter i11, Laws of 1901, relating to the practice of dentistry, provides that:

"The state board of dental examiners, consisting of five members heretofore created, shall continue to be the state board of dental examiners. Upon the expiration of each member's term of office, the governor shall appoint his successor, who shall hold office for five years and until his successor is appointed and qualified. All vacancies in 'such board shall be filled by appointment by the governor. All appointments shall be made from names furnished by the South Dakota state dental society, and it shall be the duty of the said South Dakota state dental society to present the governor with twice the number of names as there are appointments to be made. No person shall be eligible to appointment on such board who is not a practicing dentist in this state."

This should be amended to read as follows

"All vacancies in such board shall be filled by appointment by the governor. The South Dakota state dental society may at their annual meeting select and recommend to the governor for his consideration the names of two or more members of said society in good standing. No person shall be eligible to appointment on such board who is not a practicing dentist in this state.' "

On the ground of public policy, no private association or "close corporation" should be authorized to dictate the appointments to be made by the Governor, for which he is, and justly so, responsible to the people of the state. The practical operation of this law is as follows : Two names are presented to the Governor. During the year one of the parties may die, remove from the state, go into some other avocation, or by sickness or otherwise cease to be available or even worthy of any public recognition. In such a case the Governor has no choice of action. Both candidates might thus become unavailable.

Frequently some of the brightest, best and most worthy members of some associations are too busy to attend the annual meeting, and even if present may not care to "hustle" for recommendations for any appointive public positions. The Governor should be free to select the best men for the public service, and especially without restrictions that sometimes, from the very nature of things, would compel him to make even objectionable appointments.

THE PHARMACY LAW.

In the performance of my official duties I had occasion to examine Chap. 132, Laws of 1893, as amended by Chap. 150, Laws of .1895, and Chap. 103, Laws of 1897, being an act creating a South Dakota Pharmaceutical Association, establishing a Board of Pharmacy and regulating the practice of pharmacy in the state.

This law is a sample of a class of objectionable and void legislation which should be swept from the statute books. The embalmers and dental associations have already emulated the enterprise and success of the druggists, and I have seen bills, prepared and ready for introduction, by two other classes of citizens, framed on the same lines, claiming peculiar prerogatives, and subject to some of the same objections.

This law is fundamentally wrong. It is a delegation of legislative power. Also a delegation of the police power of the state to an association of private citizens-a delegation of the power of the

state to collect and disburse license moneys and enforce the penal laws of the state and collect the fines and appropriate the same for the use and benefit of its members. That this class of citizens is among the best in the state does not change the principles involved.

Section i provides that

"The registered pharmacists in the state are hereby constituted an association under the name and title of -the South Dakota Pharmaceutical Association. * * Shall report annually to the governor recommending the names of at least three (3) members in the district in which the annual vacancy occurs, as persons qualified to be appointed upon said board, and the persons so appointed shall constitute the state board of pharmaceutical examiners for South Dakota, and shall hold their office for the term of three years. * * * The appointments on said board shall be made by tile governor from among the members recommended by said association, one person from each pharmaceutical district, as now existing. * * * The state may be re-districted at any future annual meeting of the association."

Sec. 2. "The secretary and treasurer of said South Dakota Pharmaceutical Association shall each respectively be secretary and treasurer of the board of pharmacy, and they shall each give such bonds as the association may require. * * * The treasurer shall disburse the funds only on order of the president of the association, countersigned by the secretary."

Sec. 3. * * * "Said board shall have the power to make by-laws and regulations for the proper fulfillment of its duties under this act." * *

Section 4, 5 6 and 7 describe qualifications for registration and provide that every person applying for registration shall pay five dollars.

Section 8 provides that every registered pharamcist or assistant "Shall annually thereafter * * * pay to the secretary an annual registration fee, to be fixed by said association. * * * Failure to pay said fee * * * shall deprive him of his right of such renewal."

Sec. 9. "The secretary of the association shall receive a salary which shall be fixed by the association [the salary is \$500 per annum]. He shall also receive his traveling and other necessary expenses incurred in the performance of his official duties."

Sections 11, 12 and 13 make it unlawful to practice pharmacy without a license, making it a misdemeanor, punishable by a fine not less than fifty nor more than one hundred dollars for each and every offense ; also prescribing other offenses punishable by fines.

"Sec. 15. "All penalties collected under the provisions of this act shall inure to the South Dakota Pharmaceutical Association."

I distinctly disclaim any disposition to criticise either the board or members of the association. But this law is rank class legislation and against public policy. It is now in order for the Bar Association, the Editorial Association, the doctors, the bankers, the various ministerial associations, the barbers, and others, to claim similar special privileges. The Bar Association might claim the right to collect all fees for admissions to the bar and an annual license fee of five or ten dollars from every practicing attorney and all fines accruing, and disburse said sums for salaries and annual banquets. Suppose the State Liquor Dealers Association should set up the same claim for licenses and fines?

It seems to me that the State Board of Pharmacy should be divorced from the Pharmaceutical Association ; that while said association might recommend men for said board, it should not be permitted to dictate the appointments ; nor re-district the state and thus affect its membership; nor fix the annual license fees; nor foist upon said board a secretary and treasurer; nor pay the salary and traveling expenses of its officers out of funds that belong to the state treasury.

The most remarkable feature of this law is found in Section 15, authorizing the association to collect for its own use and benefit, not only all license fees, but "all penalties" for the violation of said act and regulations. (Such fees have been collected and received .and disbursed by the treasurer of said association.)

The treasurer's statement shows total receipts for the year 1901, \$2,904.38; total disbursements, \$1,845.76.

Total receipts for the year ending August 1st, 1902, \$2,888.47;

disbursements, \$1,469.35; leaving a balance on hand of \$1,419.12.

This statement does not include the state appropriation of three hundred dollars for each year, which was expended in addition to the foregoing disbursements.

This board should be paid for its services like any other state board, out of the state treasury, and the members should be accountable to the state and not to any private association. All license fees and penalties should be paid into the state treasury.

CONSTITUTIONAL AMENDMENTS ADOPTED.

At the last general election three constitutional amendments

were submitted to the electors, and according to the report of the state canvassing board, were duly adopted. Your attention is called to this fact in order that the provisions of said amendments may be made effective' and operative by appropriate legislation.

LOUISIANA PURCHASE EXPOSITION.

The legislature of 1901 after due deliberation concluded that all matters pertaining to a state exhibit at the Louisiana Purchase Exposition should "be left to the action of the next session of the Legislature."

After the adjournment of the Legislature, various state associations and commercial bodies adopted resolutions in favor of a state exhibit at the exposition which it was then supposed would be held in 1903. Members of the Business Men's Association, and particularly the Mining Men's Association of the Black Hills earnestly urged the Governor to call a special session of the Legislature. for the special consideration of an appropriation for said purpose. This I declined to do

First, because I did not deem it a proper exercise of the power of the Governor under the constitution, which declares that

"He shall have power to convene the Legislature on extraordinary, occasions";

Second : This subject had been fully considered and disposed of by the Legislature during its regular session, and, third, the expense of a special session might equal the necessary expenditure for participation in the exposition.

Convinced that a large number of the people of the state are deeply interested in this matter, I have obtained from the Exposition managers a statement of facts, which may be of interest to the Legislature

The Louisiana Purchase Exposition will be held at St. Louis from May 1st, 1904, to November 30, 1904.

The Congress of the United States, mindful of the national character of the event to be commemorated, and recognizing the public spirit and patriotism of the people of St. Louis and Missouri, in March, 1901, appropriated \$5,000,000 to aid in the inauguration of this Exposition, conditioned upon the City of St. Louis having provided \$10,000,000 for the same purpose. On August 21, 1901, the President of the United States extended formal invitation to all

countries with whom our government has diplomatic relations to participate in the Louisiana Purchase Exposition. In June, 1902, Congress provided for the erection of a government building and for a government exhibit at this exposition, making a total appropriation of \$6,308,000.

The republics of France and Mexico and the Empire of Germany have accepted the invitation, appointed commissioners, who have selected sites for their buildings, and are preparing comprehensive and characteristic exhibits. England, Japan, China, Canada, Siam, Prussia, Ceylon and most, if not all, of the Central and South American republics have also informed the State Department at Washington and the Exposition management of their intention to participate in this exposition, and preparations are being made for accepting the sites allotted them and the erection of their buildings and the installation of their exhibits. Representatives of the exposition are now visiting the governments of all foreign countries that have not already accepted the invitation.

The State of Missouri has appropriated \$1,000,000 in addition to the \$10,000,000 furnished by the City of St. Louis ; Illinois has appropriated \$25,000, Iowa \$125,000, Kansas \$75,000, and eighteen other states have made preliminary appropriations, (including New York \$100,000), to the end that these commonwealths may be fitly represented at this gathering of all the civilized peoples of the globe.

Eight large exhibit palaces are in the course of construction at a cost of four and one half million dollars ; three others will be begun within the next fifteen days. The administration and service buildings on the exposition grounds have been finished and occupied since May; hundreds of thousands of dollars have been expended in grading and embellishing the grounds and in constructing canals, and millions of dollars more will be expended to the same purpose.

The exposition managers represent that

"An architectural picture has been planned which in beauty and extent is incomparable with any heretofore conceived. The exhibit palaces, buildings of the federal government, of the states and territories and of

foreign governments are grouped around a central spot upon which is being erected a fire-proof Art Hall with a frontage of 800 feet and a depth of 260 feet, and a Festival Hall, circular in plan, with a seating capacity for about 6,000 persons. This Festival Hall is on the summit of aa cascade

which is 65 feet in height, 120 feet in width, and which falls into a basin 600 feet in width. from which the water flows into canals 75 feet wide and over a mile in length. This Festival Hall is flanked on either side by a collonade surmounting a terrace for the states. On this terrace has been allotted a space for each state and territory carved out of the Louisiana Purchase. Upon each of these spaces will be placed an allegorical statue symbolical of the spirit of the state or' territory it represents. These figures will be modeled by the most eminent sculptors of the United States, and will portray in a striking manner the spirit and characteristics of the people who inhabit a section, the development of which, under republican institutions, is unequalled in the history of the world. it is hoped and earnestly desired that the commission of each of the Louisiana Purchase States and Territories, when appointed, will make provision for the preservation of these allegorical statues in marble or in bronze in order that their beauty and significance may endure to contribute to the pleasure and the education of coming generations, and to enhance their patriotism and their devotion to our form of government."

Up to this time twenty-five states have officially and unofficially accepted the sites allotted to them for the erection of state buildings, and six more have submitted to the exposition management plans for their respective buildings. The ground area of the exhibit palaces is greater than that of any exposition ever held anywhere. Yet applications have been received sufficient to occupy all the space planned. I have been informed that room for an installation of a South Dakota exhibit will be reserved until May 1st 1903, after which time the remaining space will be given to individual exhibitors and to other states and countries.

"FREE RANGE".

The Commissioner of School and Public Lands recommends the repeal of what is known as the "Free Range Law," in force in that part of the state which lies west of the Missouri River, and in a supplemental report makes the following showing "The following table shows the amount leased and unleased for the past six years in this section of our state as follows, to wit:

Year	Acres Leased.	Acres Unleased
1897	68.707	999.123
1898	108.919	9.58.911
1899	117.663	971.277
1900	162.331	926.602
1901	243.176	845.762
1902	325,988	762,952

"The leasing rate varied in different counties, being highest in Lawrence and Gregory, and was higher for a term of three or five years than for one year. The rates were as follows:

In 1897 from	2c to 7c
In 1898 from	2c to 7c
In 1899 from	3c to 8c
In 1900 from	4c to 9c
In 1901 from	5c to 9c
In 1902 from	5c to 11

"The only counties in this section where the leasing price for a term of five years has been above 7 cents are in Lawrence and Gregory, while east of the Missouri River the lowest five year leasing rate in any county is 10 cents per acre."

From these facts the commissioner maintains that "Had these lands been paid for at the minimum leasing rate of from 2 cents to 5 cents per acre per year, our common school and endowment funds would have been increased in the past six years in the sum of \$192,595.00 and had they been leased at the five year rate which, at the highest has never been above 7 cents per acre each year, except in Lawrence and Gregory counties (both of which contain only 29,350 acres of school and no endowment land), the school and endowment funds would have been increased in the sum of \$329,030.34, which is nearer the correct amount as a very large majority of leases made in these counties have been for a five year term and the state general fund would have been considerably increased by lease fees.

"Not counting the lease fees due the general fund, the common school and endowment funds have contributed to the stockmen who have ranged their stock at large in this state west of the Missouri river for the past six years alone (figured at a five year rate), the following amounts:

1897.....	\$55,585.04
1898.....	52,053.66
1899.....	51,702.06
1900.....	53,686.12
1901.....	9,679.46
1902	54,324.00

A Total of\$329,030.34 "

During the last two years hundreds of homesteaders have established themselves throughout this part of the state and thousands will be seeking homes along the streams in the valleys and on the beautiful prairies where heretofore the vast herds of cattle companies have held undisputed possession. Changing conditions require corresponding legislation. It is for the legislature to ascertain and determine whether the time has come-it surely will come-when by a repeal of the "Free Range Law" the three quarters of a million acres now furnishing free range can be made a source of revenue to the school and endowment funds. The stock industry appears to be increasing with increasing population. There were more train loads of stock from this extensive area this year than five years ago. The number of stock trains five years hence will be great

er than this year. The shipments in the future will be made by a larger number of men and the aggregate will be vastly greater. The dairy farm and the smaller ranch with greater economy and greater profits, are appropriating the free possessions of the big cattle companies. The rent paid will to that extent lessen the profits just as the tenants who farm school lands must deduct the rent paid to the state from their profits. Will a change in the policy which has heretofore regulated this stock industry be beneficial or detrimental to this portion of the state? These questions are for the legislature to determine.

THE STATE FAIR.

The legislature of 1901 passed an act reorganizing the State Board of Agriculture and appropriating a sum of money to be used in connection with an annual state fair. The report of the board shows that owing to climatic conditions the attendance at the fair in 1901 was small, and, financially, the fair was not a success. For 1902 the board says the fair "excelled all other records of the State Fair of South Dakota." These officials receive no pay for their work, and it is not easy to find men willing to devote the time necessary for planning, advertising and managing a state fair. President Moulton and his associates have labored earnestly and are entitled to great credit for their public spirit and enterprise.

The board asks for an appropriation of five thousand dollars per year for the coming two years.

THE "SOUTH DAKOTA."

A battleship which will be named South Dakota is being built. The keel of the ship was laid September 30, 1902. A report made to the government December 1, 1902, shows that the vessel was 14 per cent completed. The contract provides for its entire completion January 10, 1904.

Your attention is called to these facts, believing that you might wish to recognize the compliment and honor in a suitable manner and in accordance with a custom now well established by other states.

MISCELLANEOUS RECOMMENDATIONS.

I.

Before appropriating money for the insurance of public buildings, the officer or board having the building in charge should be consulted. (See p. 7 report of the Board of Charities and Corrections.)

Gov. Mes---4

II.

Provisions should be made for the insurance of public buildings in the course of construction. (Id. p. 6.)

III.

An appropriation of three thousand dollars as a "revolving" fund to be used by the Commissioner of School and Public Lands for expenses in foreclosure proceedings and litigation protecting the interests of the state in school and endowment lands.

IV.

Legislation providing better facilities for carrying on the scientific and engineering work of the geological survey in this state.

V.

Appropriations for the Woman's Committee of Investigation for the Charitable and Penal Institutions. (See Sec. 1, Ch. 50, Laws of 1890.)

This committee has during the past year made a thorough investigation of the charitable and penal institutions of the state. In my judgment this is an important committee, doing excellent work.

VI.

Amend the registration law, requiring an annual registration, to correspond with the biennial system of elections.

DEPARTMENT OF HISTORY.

To Hon. Doane Robinson, Secretary of the Department of History, South Dakota will always owe a debt of gratitude for his energy, enthusiasm and public spirit in organizing and carrying forward the historical researches of this department. The first volume of the South Dakota Historical Collections has just been published. It contains the report of the officers of the Historical Society and the following historical papers

"Historical Sketch of North and South Dakota," by William Maxwell Blackburn, LL.D., 1893, with editorial notes by Dr. De Lorme W. Robinson, and an appreciation of Dr. Blackburn by Thomas Lawrence Riggs.

"The Voyage of Groseilhers and Radisson, 1652 to 1634," by Robert F. Kerr.

Official correspondence pertaining to the Leavenworth Expedi

tion of 1823 into South Dakota for the Conquest of the Ree Indians, with explanatory notes by Doane Robinson.

"Old Fort Pierre and Its Neighbors," by Major Frederick T. Wilson, U. S. A., with editorial notes by Charles F. DeLand.

Official correspondence relating to Fort Pierre.

An appendix containing the text of several treaties ceding land within the state.

This work represents a vast amount of laborous research and is replete with important facts which were gathered from the few remaining types of the voyageurs, trappers, scouts and explorers a class, picturesque and unique, but nearly extinct. I predict with absolute confidence that this book will rank among the most valuable, most interesting and great publications issued by the State Historical Societies the past year—a work that will reflect great credit upon the State Historical Society and prove of great value to the state. Dr. Robinson's notes contain many intensely interesting accounts of Indian tribes and biographical sketches of the great Indian chiefs who during the last century inhabited this region. His personal acquaintance with many of the great actors in the Sioux drama, his personal knowledge of facts that in the future will figure in song and story descriptive of the departing race, has enabled him to delineate the true character of Spotted Tail, Sitting Bull, Gall, Grass, Crazy Horse, Red Cloud, and many others of the great characters in the early and most thrilling history of the Dakotas. Of these remarkable chieftains all are gone except Red Cloud and The Charging Bear (John Grass), the latter of whom our author designates "among the greatest, if not the greatest, living Indian orator."

Within the borders of our state once lived the mightiest tribe among all the American Indians. Before the Peace Commission in 1867, Pi-zigall, better known as Chief Gall, and truthfully named "The Gen. Hancock of the Sioux," pleading for his people with a pathos that will reverberate as long as the state has a history, said

"This is our land and our home. We have no exact boundaries, but

the graves of the Sioux nation mark our possessions. Wherever they are found the land is ours."

These primitive people dearly loved Dakota's beautiful plains, its valleys and mountains—loved them as we love them. This was the hunters' paradise. Is it strange that they resisted,

"Battling like gods and demons"

for their ancient possessions?

We owe it to the history of our country to perpetuate the story of all the people within our domain. The writers for the first volume of the Historical Society have established a standard of historical and literary excellence which subsequent contributors will not easily equal. The Act of the legislature of 1901 creating the Department of History will be recognized as one of its most important acts of legislation.

The reviews of the progress of the state, studiously prepared by Secretary Robinson and published in the December numbers for 1901 and 1902 of *The Dakotan*, have become recognized as an authority to which one may turn to learn the current events and conditions of the year. Of the review of the year 1901 twenty thousand copies were circulated by the Secretary. It was reproduced and circulated by other publishers to the extent of 200,000 copies and thus became a most important factor in advertising the resources and advancing the prosperity of the state.

UNITED STATES SENATOR.

Among the many duties devolving upon the members of this legislature one of the most important, and I am sure, one of the most pleasant, will be the election of a United States senator for the term ending March 4, 1903, and for the full term commencing at that time. By popular vote the people have selected the Hon. A. B. Kittredge as their choice for this most important and distinguished position. During his brief term in the councils of the statesmen of our nation he has rendered services of international importance reflecting great credit upon himself and honor upon this young commonwealth.

CONCLUSION.

During the past two years the various departments have been conducted with the greatest mutual good will, confidence and respect, and to my co-laborers in every position in the service of the state I desire to express my thanks for the kindness and courtesy in the performance of all official duties.

In conclusion permit me to express the hope that your session will be pleasant and harmonious, and that by wise, progressive, yet conservative legislation your acts will promote the material, intellectual and moral growth and development of the state, and I wish to assure you of my earnest desire to co-operate with you in every meas-

ure that will be for the interests of the state and tends to promote the general welfare and prosperity of the people.

CHARLES N. HERREID,
Governor.

January 6, 1903.

APPENDIX.

PARDONS, 1901.

I. Belle Halstead. Sentenced May 28, 1901 ; county, Clark; crime, adultery ; term, ninety days; pardoned June 29, 1901.

Pardon was granted this woman on account of her physical condition as shown by the report of W. J. Evans, physician of the State Penitentiary, and the warden of the penitentiary; also at the request of her husband; unanimous request of the Women's Committee of Investigation, and upon the recommendation of Hon. Julian Bennett, the judge presiding at the trial and who pronounced sentence.

2. Robert Hoge. Sentenced May 17, 1901 ; county, Codington ; crime, assault with dangerous weapon with intent to do bodily harm; term, four months; pardoned August 27, 1901.

The prisoner's term of sentence, with good time deducted as provided by law, would have expired on the 29th day of August, 1901. He was thus liberated two days before the expiration of his term in recognition of the request of many prominent citizens of Codington county.

3. Otto Hoge and Gust Hoge. Sentenced May 17, 1901; county, Codington; crime, assault with dangerous weapon with intent to do bodily harm ; term, six months each ; pardoned, October 14, 1901.

The reason for executive clemency was exactly the same as in the preceding case. Otto and Gust Hoge were tried and convicted at the same time and term of court as Robert Hoge, their term of sentence being fixed at six months and the latter's at four months. Otto and Gust Hoge were released one day before the expiration of their term.

PARDONS, 1902.

i. Fred Schacher. Sentenced February 6, 1902; county, Day ; crime, perjury; term, one year; pardoned, June 27, 1902.

The family, consisting of wife, and three children ranging in age from six months to three years, were shown to be without financial support. The pardon was earnestly recommended by the circuit judge who imposed the sentence, the state's attorney who prosecuted the case and a large number of residents of Day county. Pardoned to enable him to attend the funeral of one of his children and to see and nurse his wife and other children who were seriously sick.

2. Vannie Dickman. Sentenced June 12, 1902; county, Brule; crime, adultery; term, six months ; pardoned July 22, 1902.

This unfortunate woman at the time of her trial was in delicate health and soon to give birth to a child. In view of the short time for which she was sentenced, her physical condition, as shown by affidavit of the physician of the penitentiary, and the further consideration that her child ought not to suffer for the transgressions of its parents by a handicap in the race of life with the stigma of a prison birth, she was granted a pardon. The petition was signed by every member of the Board of Charities and Corrections.

3. William Vincent. Sentenced June 24, 1902; county, Charles Mix; crime, grand larceny ; term, one year ; pardoned, August 30, 1902.

Pardon was granted in this case on the recommendation of Hon. E. G. Smith, who presided at the trial and pronounced sentence, eleven of the jurors who returned the verdict, and about four hundred citizens of Charles Mix county.

4. S. A. Knapp. Sentenced December 7, 1901 ; county, Clark; crime, removing and selling mortgaged property ; term, one year ; pardoned September 15, 1902.

Owing to the previous excellent character and reputation of the said S. A. Knapp, and upon the recommendation of Hon. Julian Bennett, the judge who presided at the trial and pronounced sentence, Hon. S. H. Elrod, the prosecuting attorney, and a large number of the residents of Clark county, executive clemency was extended and the prisoner pardoned, after deducting "good time" earned by law, twenty-two days before the expiration of the term.

5. Leon St. John. Sentenced March 18, 1902; county, Hyde; crime, grand larceny : term, one year; pardoned September 15, 1902. St. John pleaded guilty, and at the trial it was conclusively shown that his connection with the crime extended no farther than that of an accomplice. The shortest sentence that could be imposed

under the statute was one year, and in the opinion of the Hon. L. E. Gaffy, presiding judge, and Hon. A. N. VanCamp prosecuting attorney, one year was a longer term of imprisonment than the facts in the case would justify. The petition for pardon was signed by the state's attorney, the county officials, pastors of the various churches in the town of Highmore and a large number of the citizens of Hyde county, and was approved by the judge of the circuit court.